

MONTANA LEGISLATIVE HISTORY

Chapter 114 19 89

Bill H 341 S _____ Original bill & history /c

H. Committee on BUS. ECON. Dev.

Hearing Date(s) 1/27 /c

2/6 /c

_____ c

_____ c

Date Out 2/6 _____ c

S. Committee on BUS. & IND

Hearing Date(s) 3/1 /c

Exec. Review 2/1 /c

_____ c

_____ c

Did this bill originate in an interim committee? _____ Yes / No

Committee _____

Report _____

HOUSE FINAL STATUS

3/20 3RD READING CONCURRED 48 0

RETURNED TO HOUSE

3/27 SIGNED BY SPEAKER

3/28 SIGNED BY PRESIDENT

3/29 TRANSMITTED TO GOVERNOR

4/03 SIGNED BY GOVERNOR

CHAPTER NUMBER 410 EFFECTIVE DATE: 4/03/89

HB 341 INTRODUCED BY MCCORMICK
REVISE SMALL TRACT FINANCING ACT TO APPLY UP TO 30
ACRES

1/21 INTRODUCED

1/23 REFERRED TO BUSINESS & ECONOMIC DEVELOPMENT

1/27 HEARING

2/07 COMMITTEE REPORT--BILL PASSED

2/09 2ND READING PASSED 82 15

2/11 3RD READING PASSED 75 17

TRANSMITTED TO SENATE

2/13 REFERRED TO BUSINESS & INDUSTRY

3/01 HEARING

3/01 COMMITTEE REPORT--BILL CONCURRED

3/03 2ND READING CONCURRED 48 0

3/06 3RD READING CONCURRED 50 0

RETURNED TO HOUSE

3/10 SIGNED BY SPEAKER

3/10 SIGNED BY PRESIDENT

3/11 TRANSMITTED TO GOVERNOR

3/16 SIGNED BY GOVERNOR

CHAPTER NUMBER 114 EFFECTIVE DATE: 10/01/89

HB 342 INTRODUCED BY DARKO, ET AL.
PROHIBIT USE OF RIMFIRE AMMUNITION IN HUNTING OF
GAME ANIMALS

1/21 INTRODUCED

1/23 REFERRED TO FISH & GAME

1/31 HEARING

2/10 COMMITTEE REPORT--BILL PASSED

2/13 2ND READING PASSED 72 23

2/15 3RD READING PASSED 74 24

TRANSMITTED TO SENATE

2/16 REFERRED TO FISH & GAME

3/02 HEARING

3/03 COMMITTEE REPORT--BILL CONCURRED

3/04 2ND READING CONCURRED 30 11

3/07 3RD READING CONCURRED 37 13

RETURNED TO HOUSE

3/13 SIGNED BY SPEAKER

3/14 SIGNED BY PRESIDENT

3/14 TRANSMITTED TO GOVERNOR

3/17 VETOED

HB 343 INTRODUCED BY HANSEN, S., ET AL.
CLARIFY FOOD ESTABLISHMENTS' LICENSES; INCREASE

HOUSE BILL NO. 341
INTRODUCED BY MCCORMICK

IN THE HOUSE

JANUARY 21, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & LABOR.
JANUARY 23, 1989	FIRST READING.
FEBRUARY 7, 1989	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
FEBRUARY 8, 1989	PRINTING REPORT.
FEBRUARY 9, 1989	SECOND READING, DO PASS.
FEBRUARY 10, 1989	ENGROSSING REPORT.
FEBRUARY 11, 1989	THIRD READING, PASSED. AYES, 75; NOES, 17.
	TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 13, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & INDUSTRY.
	FIRST READING.
MARCH 1, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 3, 1989	SECOND READING, CONCURRED IN.
MARCH 6, 1989	THIRD READING, CONCURRED IN. AYES, 50; NOES, 0.
	RETURNED TO HOUSE.

IN THE HOUSE

MARCH 7, 1989

RECEIVED FROM SENATE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 HOUSE BILL NO. 341
2 INTRODUCED BY Mr. Linnick
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING THE SMALL
5 TRACT FINANCING ACT OF MONTANA BY AUTHORIZING THE USE OF
6 TRUST INDENTURES IN TRANSACTIONS IN WHICH THE REAL PROPERTY
7 DOES NOT EXCEED 30 ACRES; AND AMENDING SECTIONS 71-1-302
8 THROUGH 71-1-304, MCA."

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 **Section 1.** Section 71-1-302, MCA, is amended to read:

12 "71-1-302. Policy. Because the financing of homes and
13 business expansion is essential to the development of the
14 state of Montana and because such financing of homes and
15 business expansion, usually involving areas of real estate
16 of not more than ±5 30 acres, has been restricted by the
17 laws relating to mortgages of real property and because more
18 such financing of homes and business expansion is available
19 if the parties can use security instruments and procedures
20 not subject to all the provisions of the mortgage laws, it
21 is hereby declared to be the public policy of the state of
22 Montana to permit the use of trust indentures for estates in
23 real property of not more than ±5 30 acres as hereinafter
24 provided in this part."

25 **Section 2.** Section 71-1-303, MCA, is amended to read:

1 "71-1-303. Definitions. As used in this part, unless
2 the context requires otherwise, the following definitions
3 apply:

4 (1) "Beneficiary" means the person named or otherwise
5 designated in a trust indenture as the person for whose
6 benefit a trust indenture is given or his successor in
7 interest, and who shall not be the trustee.

8 (2) "Fifteen Thirty acres" means ±5 30 acres of land.

9 (3) "Grantor" means the person conveying real property
10 by a trust indenture as security for the performance of an
11 obligation.

12 (4) "Trust indenture" means an indenture executed in
13 conformity with this part and conveying real property to a
14 trustee in trust to secure the performance of an obligation
15 of the grantor or other person named in the indenture to a
16 beneficiary.

17 (5) "Trustee" means a person to whom the legal title
18 to real property is conveyed by a trust indenture or his
19 successor in interest."

20 **Section 3.** Section 71-1-304, MCA, is amended to read:

21 "71-1-304. Trust indentures authorized -- power of
22 sale for breach in trustee. (1) Transfers in trust of any
23 interest in real property of an area not exceeding ±5 30
24 acres may be made to secure the performance of an obligation
25 of a grantor or any other person named in the indenture to

1 a beneficiary provided that it ~~shall--be~~ is unlawful to
2 substitute a trust indenture for any mortgage in existence
3 on March 5, 1963.

4 (2) Where any transfer in trust of any interest in
5 real property is ~~hereafter~~ made to secure the performance of
6 ~~such--an~~ the obligation referred to in subsection (1), a
7 power of sale is ~~hereby~~ conferred upon the trustee to be
8 exercised after a breach of the obligation for which ~~such~~
9 the transfer is security.

10 (3) A trust indenture executed in conformity with this
11 part may be foreclosed by advertisement and sale in the
12 manner ~~hereinafter~~ provided in this part or, at the option
13 of the beneficiary, by judicial procedure as provided by law
14 for the foreclosure of mortgages on real property. The power
15 of sale may be exercised by the trustee without express
16 provision ~~therefor~~ in the trust indenture.

17 (4) Where the trust indenture states that the real
18 property involved does not exceed 15 30 acres, ~~such~~ the
19 statement ~~shall---be~~ is binding upon all parties and
20 conclusive as to compliance with the provisions of this part
21 relative to the power to make a transfer, trust, and power
22 of sale."

BEST COPY
AVAILABLE

STATUS SHEET

51st LEGISLATIVE SESSION

Business & Economic Development COMMITTEE

BILL NUMBER	ENTERED COM. DATE	DATE CON- SIDERED	OUT OF COM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMENDED DATE	DO NOT PASS AS AMENDED DATE	BE CON- CURRED IN DATE	BE NOT CON- CURRED IN DATE	BE CON- CURRED IN AMENDED DATE	BE NOT CONCURRED IN AS AMENDED DATE
3300	1/30	1/30	2/3			2/3					
306	1/30	2/1	2/7	2/7							
341	1/23	1/27	2/7	2/7							
343	1/23	1/30	1/31	1/31							
327	1/23	with drawn									
318		1/30	1/31	1/31							
321		1/31	1/31	1/31							
322	with drawn	1/31									
326	✓	1/31	1/31			1/31					
319	1/24	1/30	1/31			1/31					
371	1/25	2/1	2/1	2/1							
405	1/25	2/1	2/1	2/1							
434	1/26	1/31	1/31	1/31							
437	1/26	2/16	2/16	2/16							

Use a separate sheet for Senate Bills, House Bills, and Resolutions.

7

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT

Call to Order: By Rep. Bob Pavlovich, on January 27, 1989,
at 8:30 a.m.

ROLL CALL

Members Present: All

Members Excused: None

Members Absent: None

Staff Present: Paul Verdon and Sue Pennington

Announcements/Discussion: None

HEARING ON HOUSE BILL 341

Presentation and Opening Statement by Sponsor: Rep.
McCormick, district 38, stated that his bill would
amend the Small Tract Financing Act of Montana by
authorizing the use of trust indentures in transactions
in which the real property does not exceed 30 acres.

List of Testifying Proponents and What Group They Represent:
Jerry Loendorf, Montana Consumer Finance Association
Tom Hopgood, Montana Realtors Association

List of Testifying Opponents and What Group They Represent:
None

Testimony: Mr. Loendorf stated that the bill would amend
the Small Tract Financing Act by increasing from 15 to
30 acres the size of a piece of property on which a
person could use a trust indenture to secure an
obligation. Under current law you can only use a
mortgage to secure such an obligation. For example,
suppose I am a backhoe operator and I am off of work
for the winter; and I had bought one of these 20 acre
parcels. I own it and I'm not doing anything, I need a
little money until I start working in the spring. By
utilizing a trust indenture, I can easily borrow some
money, securing the loan with that 20 acre parcel. But

Jan. 27 ~~February 6~~, 1989

Page 2 of 8

because I can't get a trust indenture on a tract of land over 15 acres I might not be able to obtain that loan. We would like the acreage increased to keep up with the times. The association I represents urges a do pass on this bill.

Mr. Hopgood stated that the realtors believe there should be as many different modes as possible available for financing real estate transactions. They think the trust indenture should be expanded and ask that the committee give a do pass recommendation.

Questions From Committee Members: Rep. Thomas asked Mr. Loendorf why the real need for this change to 30 acres? What is the problem we are addressing? Mr. Loendorf stated that a trust indenture cannot be used now for any tract under 15 acres. If you want to use a trust indenture to secure a loan for a tract of 30 acres you can not. You have to have a mortgage.

Closing by Sponsor: In closing, Rep. McCormick asked the committee to give this bill a do pass.

DISPOSITION OF HOUSE BILL 341

Motion: Rep. Glaser moved DO PASS.

Discussion: Rep. Thomas realizes that this is a very minor bill and it should just slide right through the committee. I would like a day at most to call a few of my friends in regards to this because I don't like trust indentures. I would like to hold this for just one day. Rep. Glaser withdrew his motion.

Amendments and Votes: None

Recommendation and Vote: None

EXECUTIVE ACTION

HOUSE BILL 218

Motion: Rep. Wallin moved DO PASS. He also moved DO PASS on the amendments.

Discussion: Rep. Kilpatrick asked if they had to pay a penalty if the report was not finished within the set time period? Paul said he was sure the general penalty section would apply. Rep. Kilpatrick stated that at one time the committee had considered the idea that the

DAILY ROLL CALL

BUSINESS & ECONOMIC DEVELOPMENT COMMITTEE

51th LEGISLATIVE SESSION -- 1989

Date 1 27 89

NAME	PRESENT	ABSENT	EXCUSED
PAVLOVICH, BOB	✓		
DeMARS, GENE	✓		
BACHINI, BOB	✓		
BLOTKAMP, ROB	✓		
HANSEN, STELLA JEAN	✓		
JOHNSON, JOHN	✓		
KILPATRICK, TOM	✓		
McCORMICK, LLOYD "MAC"	✓		
STEPPLER, DON	✓		
GLASER, BILL	✓		
KELLER, VERNON	✓		
NELSON, THOMAS	✓		
SIMON, BRUCE	✓		
SMITH, CLYDE	✓		
THOMAS, FRED	✓		
WALLIN, NORM	✓		
PAUL VERDON	✓		

VISITORS' REGISTER

Business & Economic COMMITTEEBILL NO. HB 274
HB 341DATE 1/27/89SPONSOR Quilici
McCormickPlease put the
bill number. Thanks

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Jyrone Loendorf	Helena	✓ 241	
Troy McGee	Helena		✓ HB274
John F. Fitzpatrick	Helena MT	HB 274	
Mary A. Pangley	Mt. Mining Area	✓	HB274 ✓
Don Jenkins	Whitefish, MT.		HB274 ✓
WARD SHANAHAN	HELENA, MT.		✓ 274
John North	Helena		
Gary Amesby	Helena		
Tom Hopgood	Mont. Assoc. Realtors	✓ 341	
Nancy Matheson	Helena	24	
Ray Tilmon	Butte	HB 274	✓ HB274

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT

Call to Order: By Rep. Bob Pavlovich, on February 6, 1989, at
10:00 a.m.

ROLL CALL

Members Present: All

Members Excused: None

Members Absent: None

Staff Present: Paul Verdon and Sue Pennington

Announcements/Discussion: None

HEARING ON HOUSE BILL 464 AND HOUSE JOINT RESOLUTION 12

Presentation and Opening Statement by Sponsor:

Rep. Bradley, House District 79, Bozeman. On both of these measures there will be amendments presented to you. Part of the issue is fairly easy to talk about. There is a section in HJR 12 and actual action in HB 464 dealing with the same issue. These are designed to address the issue of subsidized pricing and predatory practices in the arena of service station dealers and motor fuel products. They allow for regulating the price of motor fuel at wholesale and retail levels; provide for penalties and remedies for sales in violation of established prices; and prohibit unfair practices in the sale of motor fuel. In HJR 12, the amendments that will come to you are relatively simple. The basic thrust in all of this discussion this morning is that in the realm of motor fuels, the small dealers, independent dealers are victims of subsidized pricing and predatory practices taking place right now which are not fair trade practice in this state. HJR 12 proposes to study the marketing that is going on in Montana, look at the accusations and the contentions that have been raised on both sides, find out if there are indeed unfair practices in place and if so the committee would prepare legislation. The purpose of HB 464 is to eliminate subsidized pricing and predatory practices in Montana.

because I can't get a trust indenture on a tract of land over 15 acres I might not be able to obtain that loan. We would like the acreage increased to keep up with the times. The association I represents urges a do pass on this bill.

Mr. Hopgood stated that the realtors believe there should be as many different modes as possible available for financing real estate transactions. They think the trust indenture should be expanded and ask that the committee give a do pass recommendation.

Questions From Committee Members: Rep. Thomas asked Mr. Loendorf why the real need for this change to 30 acres? What is the problem we are addressing? Mr. Loendorf stated that a trust indenture cannot be used now for any tract under 15 acres. If you want to use a trust indenture to secure a loan for a tract of 30 acres you can not. You have to have a mortgage.

Closing by Sponsor: In closing, Rep. McCormick asked the committee to give this bill a do pass.

DISPOSITION OF HOUSE BILL 341

Motion: Rep. Glaser moved DO PASS.

Discussion: Rep. Thomas realizes that this is a very minor bill and it should just slide right through the committee. I would like a day at most to call a few of my friends in regards to this because I don't like trust indentures. I would like to hold this for just one day. Rep. Glaser withdrew his motion.

Amendments and Votes: None

Recommendation and Vote: None

EXECUTIVE ACTION

HOUSE BILL 218

Motion: Rep. Wallin moved DO PASS. He also moved DO PASS on the amendments.

Discussion: Rep. Kilpatrick asked if they had to pay a penalty if the report was not finished within the set time period? Paul said he was sure the general penalty section would apply. Rep. Kilpatrick stated that at one time the committee had considered the idea that the

12:58p
2/07/89
ja

STANDING COMMITTEE REPORT

February 7, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Business and Economic Development report that HOUSE BILL 341 (first reading copy -- white) do pass.

Signed:


Robert Pavlovich, Chairman

DAILY ROLL CALL

BUSINESS & ECONOMIC DEVELOPMENT COMMITTEE

51th LEGISLATIVE SESSION -- 1989

Date 2 6 89

NAME	PRESENT	ABSENT	EXCUSED
PAVLOVICH, BOB	✓		
DeMARS, GENE	✓		
BACHINI, BOB	✓		
BLOTKAMP, ROB	✓		
HANSEN, STELLA JEAN	✓		
JOHNSON, JOHN	✓		
KILPATRICK, TOM	✓		
McCORMICK, LLOYD "MAC"	✓		
STEPPLER, DON	✓		
GLASER, BILL	✓		
KELLER, VERNON	✓		
NELSON, THOMAS	✓		
SIMON, BRUCE	✓		
SMITH, CLYDE	✓		
THOMAS, FRED	✓		
WALLIN, NORM	✓		
PAUL VERDON	✓		

House Bills

STATUS SHEET

51st LEGISLATIVE SESSION

Business & Industry

COMMITTEE

BILL NUMBER	ENTERED COM. DATE	DATE CON- SIDERED	OUT OF COM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMENDED DATE	DO NOT PASS AS AMENDED DATE	BE CON- CURRED IN DATE	BE NOT CON- CURRED IN DATE	BE CON- CURRED IN AMENDED DATE	BE NOT CONCURRED IN AS AMENDED DATE
HB 251	2/2	3/13	3/13					3/13			
HB 258	2/2	3/10	3/10							3/10	
HB 262	2/2	2/28	2/28							2/28	
H											
HB 321	2/7	3/8	3/8					3/8			
HB 339	2/14	3/3/8					TABLE 3/8				
HB 341	2/13	3/1 3/1	3/1					3/1			
HB 355	2/18	3/14	3/14					3/14			
HB 381	2/17	2/28	2/28					2/28			
HB 406	2/9	3/15	3/15					3/15			
HB 417	2/10	3/2	3/2					3/2			
HB 429	2/15	3/3	3/3					3/3			

Use a separate sheet for Senate Bills, House Bills, and Resolutions.

MINUTES

MONTANA SENATE
51st LEGISLATURE - REGULAR SESSION
COMMITTEE ON BUSINESS AND INDUSTRY

Call to Order: By Chairman Thayer, on March 1, 1989, at
10:00 a.m., Room 410

ROLL CALL

Members Present: Chairman Thayer Vice Chairman Meyer,
Senator Boylan, Senator Noble, Senator Williams,
Senator Hager, Senator McLane, Senator Weeding,
Senator Lynch

Members Excused: None

Members Absent: None

Staff Present: Mary McCue, Legislative Council

Announcements/Discussion: None

HEARING ON HOUSE BILL 341

Presentation and Opening Statement by Sponsor:

Representative McCormick, House District 38, said HB
341 was to amend the Small Tract Financing Act to
extend the real property acreage to thirty acres. He
said the present limitation was fifteen acres. He
stated he had someone present to explain the bill, and
he would reserve the right to close.

List of Testifying Proponents and What Group They Represent:

Jerry Loendorf - Montana Consumer Finance Association
Tom Hopgood - Montana Association of Realtors
William Spilker - Self/Realtor, Helena, Montana

List of Testifying Opponents and What Group They Represent:

None

Testimony: Jerry Loendorf said HB 341 amended the Small
Tract Financing Act of 1963, which intended to
encourage lenders to make more loans for residential
and business purposes. He said it provided a lender
the ability to use a trust indenture to secure a loan,

as opposed to a mortgage. He said the last acreage increase legislature had made, was in 1974, when people began to acquire larger tracts of land. He stated a continued trend to larger tracts of land, had led to HB 341, and its proposal of thirty acres. He said lenders were more likely to make loans when they could take a trust indenture as security.

Mr. Loendorf said a lender preferred a trust indenture because foreclosure could be done through a one hundred and twenty day newspaper notice, while a mortgage foreclosure required a court procedure. Mr. Loendorf stated that either process became important, only when payments were in default. He said a borrower with a trust indenture could be reinstated by merely paying the payments in default, plus limited attorneys fees. He stated that with a mortgage, a borrowere could be required to pay the entire amount owing.

Mr. Loendorf said the second comparison was whether or not a deficiency judgment could be taken. He said, a trust indenture allowed a lender to take the property back if there was default of payment, and notice of delinquency did not render payment. However, he could not get a deficiency judgment against the buyer, without the use of a court proceeding. He said a mortgage allowed a deficiency judgment, and other securities could be affected.

He said a foreclosure by notice, with a trust indenture closed the matter. He stated that a mortgage varied, in that it allowed a one year redemption period after foreclosure notice was given.

Tom Hopgood said his group supported HB 341, and he echoed Mr. Loendorf's remarks, that it did make the transfer of property easier. He said they believed the trust indenture financing allowed an efficient and speedy method of financing realty purchases. He said they urged passage of the bill because they thought it was good for business and economic development.

William Spilker said he believed the legislation was consistent with what had gone on in the Montana Subdivision and Platting Act. He said the definition of a Montana subdivision was the division of land under twenty acres, and consequently there had been a lot of parcels of land divided at twenty acres or greater. He said that made it impossible for a bank to secure a loan with a trust indenture, because trust indentures were limited to fifteen acres.

Mr. Spilker cited an example of an actual sale affected by the present limitations within the law. He said HB 341's extended acreage would solve their whole problem. He said he thought HB 341 was a method to employ the proper instruments for securities, and was in the best interests of consumers.

Questions From Committee Members: Senator Lynch said the language on page 2, line 8 referred to thirty acres of land. He asked what else it could have meant, other than land? Mr. Loendorf said the definition had always been in the law, and he didn't know what else it could refer to.

Senator Boylan asked why the limit of thirty, why any specific amount? Mr. Loendorf said a lot of states had removed the acreage amount. He said he didn't remove the amount, because legislature's history had revealed a tendency to keep the limit lower.

Closing by Sponsor: Representative McCormick said he would ask the committee to pass HB 341, and thanked them for the hearing.

DISPOSITION OF HOUSE BILL 341

Discussion: None

Amendments and Votes: None

Recommendation and Vote: Senator Lynch move HB 341 BE CONCURRED IN. Senator Meyer seconded the motion. The motion Carried Unanimously. Senator Noble carried HB 341 on the Senate floor.

HEARING ON HOUSE BILL 209

Presentation and Opening Statement by Sponsor:

Representative Hannah, House District 86, said HB 209 would require a lending institution to act as an intermediary with the secondary market. He said the borrower would then have a contact person if there were any questions or problems with the loan. He said the contact person would handle communications between those under a mortgage or trust indenture, and the purchaser of that mortgage or trust indenture. He said that most buyers of the secondary market were out of

SENATE STANDING COMMITTEE REPORT

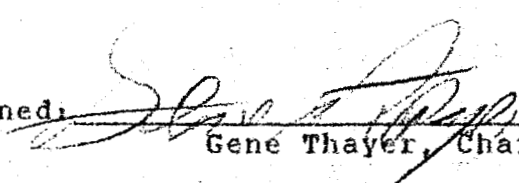
March 1, 1989

MR. PRESIDENT:

We, your committee on Business and Industry, having had under consideration HB 341 (third reading copy -- blue), respectfully report that HB 341 be concurred in.

Sponsor: McCormick (Noble)

BE CONCURRED IN

Signed: 

Gene Thayer, Chairman

4/1/89
3:30 p.m.

ROLL CALL

BUSINESS & INDUSTRY COMMITTEE

DATE 3/1/89

51st LEGISLATIVE SESSION 1989

NAME	PRESENT	ABSENT	EXCUSED
SENATOR DARRYL MEYER	✓		
SENATOR PAUL BOYLAN	✓		
SENATOR JERRY NOBLE	✓		
SENATOR BOB WILLIAMS	✓		
SENATOR TOM HAGER	✓		
SENATOR HARRY MC LANE	✓		
SENATOR CECIL WEEDING	✓		
SENATOR JOHN "J.D." LYNCH	✓		
SENATOR GENE THAYER	✓		

Each day attach to minutes.

DATE 3/1/89

COMMITTEE ON Business & Industry 1062

VISITORS' REGISTER

[illegible]

HOUSE BILL NO. 341
INTRODUCED BY MCCORMICK

A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING THE SMALL TRACT FINANCING ACT OF MONTANA BY AUTHORIZING THE USE OF TRUST INDENTURES IN TRANSACTIONS IN WHICH THE REAL PROPERTY DOES NOT EXCEED 30 ACRES; AND AMENDING SECTIONS 71-1-302 THROUGH 71-1-304, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 71-1-302, MCA, is amended to read:

"71-1-302. Policy. Because the financing of homes and business expansion is essential to the development of the state of Montana and because such financing of homes and business expansion, usually involving areas of real estate of not more than ±5 30 acres, has been restricted by the laws relating to mortgages of real property and because more such financing of homes and business expansion is available if the parties can use security instruments and procedures not subject to all the provisions of the mortgage laws, it is hereby declared to be the public policy of the state of Montana to permit the use of trust indentures for estates in real property of not more than ±5 30 acres as hereinafter provided in this part."

Section 2. Section 71-1-303, MCA, is amended to read:

"71-1-303. Definitions. As used in this part, unless the context requires otherwise, the following definitions apply:

(1) "Beneficiary" means the person named or otherwise designated in a trust indenture as the person for whose benefit a trust indenture is given or his successor in interest, and who shall not be the trustee.

(2) "Pifteen Thirty acres" means ±5 30 acres of land.

(3) "Grantor" means the person conveying real property by a trust indenture as security for the performance of an obligation.

(4) "Trust indenture" means an indenture executed in conformity with this part and conveying real property to a trustee in trust to secure the performance of an obligation of the grantor or other person named in the indenture to a beneficiary.

(5) "Trustee" means a person to whom the legal title to real property is conveyed by a trust indenture or his successor in interest."

Section 3. Section 71-1-304, MCA, is amended to read:

"71-1-304. Trust indentures authorized -- power of sale for breach in trustee. (1) Transfers in trust of any interest in real property of an area not exceeding ±5 30 acres may be made to secure the performance of an obligation of a grantor or any other person named in the indenture to

1 a beneficiary provided that it ~~shall--be~~ is unlawful to
2 substitute a trust indenture for any mortgage in existence
3 on March 5, 1963.

4 (2) Where any transfer in trust of any interest in
5 real property is ~~hereafter~~ made to secure the performance of
6 ~~such--an~~ the obligation referred to in subsection (1), a
7 power of sale is ~~hereby~~ conferred upon the trustee to be
8 exercised after a breach of the obligation for which ~~such~~
9 the transfer is security.

10 (3) A trust indenture executed in conformity with this
11 part may be foreclosed by advertisement and sale in the
12 manner ~~hereinafter~~ provided in this part or, at the option
13 of the beneficiary, by judicial procedure as provided by law
14 for the foreclosure of mortgages on real property. The power
15 of sale may be exercised by the trustee without express
16 provision ~~therefor~~ in the trust indenture.

17 (4) Where the trust indenture states that the real
18 property involved does not exceed ~~15~~ 30 acres, ~~such the~~
19 statement ~~shall---be~~ is binding upon all parties and
20 conclusive as to compliance with the provisions of this part
21 relative to the power to make a transfer, trust, and power
22 of sale."

-End-